

April 24, 2006

DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Bobbie J. Evans

Date of Filing: April 6, 2006

Case Number: TFA-0158

On April 6, 2006, Bobbie J. Evans (the Appellant) filed an Appeal from a determination issued by DOE's Freedom of Information Act/Privacy Group (FOIA/PA) on March 6, 2006. The determination responded to a request for information filed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the Department of Energy (DOE) in 10 C.F.R. Part 1004.

I. Background

The Appellant wrote DOE requesting records pertaining to "surgical implanting of Global Positioning System or other devices" in him or other individuals. Determination Letter at 1. On March 6, 2006, FOIA/PA issued a determination letter (the determination letter) in response to this request. The determination letter states that FOIA/PA forwarded the Appellant's request to the DOE's Offices of Science and Environmental Safety and Health for a search of their respective records, which included a search of a DOE database entitled DOE-88- Epidemiologic and Other Health Studies, Surveys and Surveillances. These searches did not locate any documents responsive to the Appellant's request. On March 6, 2006, FOIA/PA informed the Appellant of its failure to identify any responsive documents. On April 6, 2006, the present Appeal was filed challenging the adequacy of DOE's search.¹

II. Analysis

We have stated on numerous occasions that a FOIA request deserves a thorough and conscientious search for responsive documents, and we have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Butler, Vines and Babb, P.L.L.C.*, 25 DOE ¶ 80,152 (1995). The FOIA, however, requires that a search be reasonable, not exhaustive. "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Department of State*, 779 F.2d

¹ The Appeal contends that "Based on proof of facts that I am under electronic surveillance under the Patriot Act, I believe that your agency do [sic] have records pertaining to me." Appeal at 1. However, the Appellant has not provided any evidence that the DOE has been, or is presently, conducting electronic surveillance of him or any other individuals.

1378, 1384-85 (8th Cir. 1985); accord *Weisberg v. Department of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984). In cases such as these, "[t]he issue is *not* whether any further documents might conceivably exist but rather whether the government's search for responsive documents was adequate." *Perry v. Block*, 684 F.2d 121, 128 (D.C. Cir. 1982) (emphasis in original).

DOE clearly performed a diligent search for responsive documents. The search was directed at those locations where responsive documents were most likely to exist. Thus, we conclude that the search was reasonably calculated to uncover the records sought by the Appellant.

Since the DOE conducted an adequate search for documents responsive to the Appellant's request, the present Appeal will be denied.

It Is Therefore Ordered That:

- (1) The Freedom of Information Act Appeal filed by Bobbie J. Evans, Case Number TFA-0158, is hereby denied.
- (2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

George B. Breznay
Director
Office of Hearings and Appeals

Date: April 24, 2006